

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, January 5, 2011
Time	Noon – 2p.m.
Location	Utah State Capitol, Senate Bldg., Spruce Room
Members Present	Judge Kevin Allen, Patrick Anderson, Paul Boyden, David Brickey, Ron Gordon, Dan Maldonado, Judge Paul Maughan, Senator Ben McAdams, Benjamin McMurray, Mark Moffat, Judge Gregory Orme, Tom Patterson, Rep. Jennifer Seelig, Sy Snarr, Doyle Talbot, Kirk Torgensen
Members Excused	Judge Janice Frost, Curt Garner, Marlene Gonzalez, Jim Marchel, Judge Ric Oddone, Kathy Reimherr, Chief Ed Rhoades, Judge Stephen Van Dyke, Carlene Walker, Sheriff James Winder
Staff & Visitors	Staff: Jo Lynn Kruse, Ben Peterson, Ned Searle, Jacey Skinner, Doreen Weyland Visitors: Thomas Brunker, Rob Latham, Thomas Vaughn
Agenda Item	Welcome and Approval of Minutes
Notes	Paul Boyden called the meeting to order and welcomed everyone. Carlene Walker could not be in attendance today. Paul noted the following members with perfect attendance for 2010: Patrick Anderson, David Brickey, Rep. Lorie Fowlke, Judge Gregory Orme and Carlene Walker. David Brickey made a motion to approve the December minutes. Mark Moffat seconded the motion which passed unanimously . Jacey received a request from BYU Law School for herself or someone from the Sentencing Commission to speak at a class on Utah Adult Sentencing and Release Guidelines and policy. The request is for January 18, 20 or 27, from 1 to 1:50pm in Provo. Please check your schedules and contact Jacey if you are interested.
Agenda Item	2011 Legislative Session
Notes	Doreen Weyland, grant monitor and legislation tracker for CCJJ, discussed the Monday meetings to begin on January 10, for this legislative session. The Sentencing Commission executive committee members will meet with other executive committee members from CCJJ (Commission on Criminal and Juvenile Justice), USAAV (Utah Substance Abuse Advisory Council), LELC (Law Enforcement Legislative Committee), UCV (Utah Council on Victims of Crime, and UBJJ (Utah Board of Juvenile Justice). Discussion will include all legislation that has an impact on criminal and/or juvenile justice. A current listing of numbered bills may be accessed via the CCJJ and the Sentencing Commission websites. Positions on legislation updated no later than Tuesday after the Monday meetings. The updated information will also be distributed to legislators on Tuesdays. Doreen agreed, at Rep. Seelig's request, to make a brief presentation to the legislature concerning the legislative tracking sheet. If anyone has input on specific legislation, please convey that to Jacey.
Agenda Item	Vulnerable Adult Amendments
Notes	Thomas Vaughn, from Legislative Research and General Counsel, spoke of changes made to the vulnerable adult amendments based on suggestions rendered at the December meeting. The proposed penalty was changed to make possession of vulnerable adult pornography a third degree felony and made production/distribution and possession with intent to distribute vulnerable adult pornography a second degree felony. A minor technical change will also be made to correct existing code references a code that no longer exists. Judge Allen made the motion to support the bill as presented today with the technical cross reference change. Ron Gordon seconded the motion which passed unanimously . Patrick Anderson and Mark Moffat abstained .
Agenda Item	Utah Uniform Securities Act Enforcement
Notes	Senator McAdams legislation, as discussed at the December meeting, amends definitions, requires consideration of certain factors in specific enforcement actions; provides penalty enhancements under certain circumstances; addresses an affirmative defense; and makes technical and conforming amendments. Based on recommendations from the Sentencing Commission, the senator added definitions of "vulnerable adult" and "undue influence" to the

	<p>language.</p> <p>David Brickey made the motion to support the bill as presented today. Judge Allen seconded the motion which passed unanimously.</p>
Agenda Item	Death Penalty Procedures Amendments
Notes	<p>Assistant Attorney General, Tom Brunker, explained changes made to Death Penalty Procedures Amendments (H.B. 202), as a result of suggestions made at the November meeting. The bill clarifies when a petitioner has a right to funded counsel for successive petition and sets limits on the obtaining of execution stays for successive post-conviction petitions. Mark Moffat Benjamin McMurray and Patrick Anderson voiced concerns about cutting short judges discretion. Benjamin McMurray made the motion to oppose the bill. Mark Moffat seconded the motion. The motion failed, with only three votes from Benjamin McMurray, Mark Moffat and Patrick Anderson. Kirk Torgensen made the motion to support the bill. David Brickey seconded the motion to support the bill with change as provided in section 2. The motion passed with opposition votes from Benjamin McMurray, Mark Moffat and Patrick Anderson. Judge Maughan abstained.</p>
Agenda Item	Sex & Kidnap Offense Registration Amendments
Notes	<p>Ron Gordon spoke about federal Adam Walsh Act which requires States to conform their sex and kidnap offender registries with the federal act. If Utah is not deemed to be in compliance it may be penalized by a 10% cut in JAG grant funding. The deadline to comply is July 1, 2011. The Department of Justice has indentified multiple areas where they have determined that Utah is not in substantial compliance. Ron introduced a draft bill sponsored by CCJJ and Senator Stowell. Jacey Skinner outlined the changes. The approach of CCJJ is to look at every element individually and determine if it is good policy for the State of Utah, not to make policy changes in an attempt to be found compliant. The Department of Justice, through the SMART office will make a final determination of compliance sometime after July of this year.</p> <p>Judge Orme made the motion to support this bill. Tom Patterson seconded the motion which passed unanimously.</p>
Agenda Item	Commission Priorities
Notes	<ul style="list-style-type: none"> • Additional funding for sex offender treatment • Increase jail contracting • Parole Violator Center funding <p>David Brickey made the motion that we make a statement as a commission to support these three priorities. Sy Snarr seconded the motion which passed unanimously.</p>
Next Meeting	The next meeting will be on April 6, 2011, Annual Meeting

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ